

The Right Honourable
Patrick Lord *Kiniard*
and the Lady *Elizabeth* his Wife, } Appellants.

John Riddock Trustee
for *Catharine Lyon*,
Widow, and *Catharine Lyon*, } Respondents.

The Respondents CASE.

CHARLES late Earl of *Aboyne*, Grand-Father of the now Earl of *Aboyne*, in the Year 1667 became justly indebted to *John Lyon* Husband to the Respondent *Catharine* 3500 Marks Scotch Money, for the Purchase of an Estate sold the said Earl by the said *John Lyon*, and secur'd by Speciality against the said Earl and his Heirs, and which was assign'd for and as the only Maintenance and Provision for the said *Catharine* to the Respondent *Riddock* in Trust for Recovery whereof with Interest, the Respondents in November 1705, presented their Suit to the Lords of Council and Session in *North-Britain* against the now Earl of *Aboyne* as Heir of his Grand-Father, and having their Lordships Decree for the said Money and Interest proceeded according to the Laws of *North-Britain* to attach the Rents of the Lord *Aboyne's* Tenants. But (tho' the Respondents Debt was and is clear and uncontested) the Appellant the Lady (to delay or rather to defeat the Respondent *Catharine*, who was so far reduc'd as not to be able to commence a fresh Prosecution) appear'd before the said Lords of Council and Session, and there claim'd and had Allowance and Preference for 277 l. per Ann. Sterling charg'd upon the said Estate by the Earl of *Aboyne* her first Husband. But so as if it should appear her Ladyship was paid for the Time past, the Residue of the Rents should be apply'd to satisfy the Respondents, and it clearly appearing her Ladyship had receiv'd her full Demand until the Year 1707, the said Lords of Council were about to examine whether her Ladyship had not also receiv'd her said whole Demand for the Years 1707 and 1708. To prevent the Expence whereof the Respondents submitted to be determin'd by the Appellant's the Lady's Oath (she without the Appellant her Husband having always transacted that Affair) upon which the Appellant the Lady (after sufficient Time given her to satisfy herself) being examin'd upon Oath, and giving the said Lords no Satisfaction, they concluded her fully satisfy'd for the said Years 1707 and 1708. The said Lords of Council and Session decreed that the Rents remaining in the Tenants Hands for the Years 1707 and 1708 should be paid to the Respondents in Satisfaction of their Debt ; which Decree the said Respondents humbly hope your Lordships will be pleas'd to affirm.

- I. For that this Cause hath had its full Examination and Determination according to the Laws and Customs of *North-Britain*.
- II. For that it can be no Injury to the Appellants, the Estate being sufficient to pay both their and the Respondents Demand.
- III. For that to take away the Respondents Decree is to take away her Debt and Subsistence, she never being able to carry on another Prosecution.

The Respondents therefore humbly Pray that your Lordships will please to dismiss this Appeal with Costs.

Ja. Selby.